

## **TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations**

**(Continuation of California Notice Register 2006, No. 7-Z, and Meetings of  
February 3, March 3, and April 7, 2006.)**

**(NOTE: See Updated Informative Digest changes shown in bold face type.)**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205, 206, 215 and 316.5 of said Code, proposes to amend subsection (b)(178) of Section 7.50, Title 14, California Code of Regulations, relating to Silver King Creek.

### **Updated Informative Digest/Policy Statement Overview**

Current law (Section 200, Fish and Game Code) delegates authority to the Fish and Game Commission to regulate the taking or possession of birds, mammals, fish, amphibia, and reptiles. The Commission's regulations may establish, extend, shorten, or abolish open and closed seasons; establish, change, or abolish bag limits, possession limits, and size limits; establish and change areas or territorial limits for their taking; and/or prescribe the manner and means of taking (Section 205, Fish and Game Code). Current law (Section 315, Fish and Game Code) further states that the Commission may, at any time, close any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish to protect and properly conserve the fish.

Emergency regulations adopted on August 18, 2005 for Silver King Creek between Llewellyn Falls and Snodgrass Creek expired on December 22, 2005. Current general trout and salmon fishing regulations provide that fishing is open from the last Saturday in April through November 15, and as such, the area between Llewellyn Falls and Snodgrass Creek **was** opened to fishing on April 29, 2006, while Silver King Creek and tributaries including lakes above Llewellyn Falls **remain** closed to fishing. The Department is proposing to permanently adopt the expired emergency regulations and close to all fishing all year in Silver King Creek and tributaries including lakes above Snodgrass Creek. This action is necessary to help prevent the unauthorized movement of nonnative trout from below Llewellyn Falls to above Llewellyn Falls.

**At the May 4, 2006 Fish and Game Commission meeting, representatives of the Alpine County Board of Supervisors and other interested parties from Alpine County suggested that the proposed regulations for a closed fishing season on Silver King Creek was a hardship to County interests and offered an alternative regulation that would retain some fishing opportunity on Silver King Creek. The new proposed regulation would move the downstream boundary of the closed area from Snodgrass Creek to the confluence of Silver King Creek and Tamarack Lake Creek. The length of the closed stream reach below Llewellyn Falls would change to about 3,600 feet (rather than approximately 6 miles down to Snodgrass Creek).**

Other waters in existing portions of the watershed currently closed to angling would remain closed.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Mammoth Inn, 1 Minaret Road, Mammoth Lakes, California on June 23, 2006 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 16, 2006 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on June 20, 2006. All comments must be received no later than June 23, 2006, at the hearing in Mammoth Lakes, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sheri Tiemann at the preceding address or phone number. **Neil Manji, Chief, Fisheries Programs Branch, phone (916) 445-3616, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with

businesses in other states. The proposed regulation affects a short stream reach in a remote wilderness area of northern California.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

#### Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: May 23, 2006

John Carlson, Jr.  
Executive Director